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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/534,094

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Miguel Angel Gomez Caudevilla

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BSH HOME APPLIANCES CORPORATION  
INTELLECTUAL PROPERTY DEPARTMENT  
100 BOSCH BOULEVARD  
NEW BERN, NC 28562

EXAMINER

JACOBSON, MICHELE LYNN

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/534,094	<b>Applicant(s)</b> GOMEZ CAUDEVILLA ET AL.	
	<b>Examiner</b> MICHELE JACOBSON	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 10, 12-17 and 19-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10, 12-17 and 19-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 14-16 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. A description of how to form the plastic member as both an envelope and an insert into the structural unit formed by the bearing shell and the plastic member as claimed in claims 14-16 is critical or essential to the practice of the invention, but not included in the claim(s) and not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

3. The specification never describes a configuration in which the plastic member is inserted into a structural unit formed by the bearing shell and the plastic member and it is unclear from the specification or the claim how this would be accomplished.

Furthermore, it is impossible for the plastic member to be an envelope or an insert of itself. The configurations shown in the figures only show the plastic member to be an envelope for the bearing shell. Since the bearing shell appears to be formed with the bearings directly inserted into it, it is unclear that there remains orifice of the bearing shell possible to have a plastic member inserted into it, let alone the plastic member inserted into a structural unit formed by the bearing shell and itself. Additionally, it is unclear from the claim or specification how the plastic member which is described to be

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disposed on the surface of the bearing shell in claim 10 can then become an insert into a structural unit formed by the bearing shell and itself as in claim 14. Furthermore, it is unclear from the claim or the specification what type of mold shape or injection molding technique would be necessary to dispose ribs on the plastic member that is inserted into a structural unit formed by the bearing shell and itself that would contact the plastic container as claimed in claim 15. Claim 16 recites an "envelope or insert forming the plastic member covers the entire side surface of the bearing shell". It is unclear from the claim or the spec how something inserted into the bearing shell can be expected to cover the entire side surface of the bearing shell since the side surface of the bearing shell according to the figures and the spec is on the outside of the bearing shell where nothing can be inserted.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 13, 15, 25 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 13 is indefinite because it recites the limitation "higher strength and quality than the remainder of the container". The term "quality" is indefinite because which particular quality the plastic member is higher in than the rest of the container is not specified.

7. The term "greater strength" in claim 15 is a relative term which renders the claim indefinite. The term "greater strength" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The term greater strength implies that a comparison must be made in order to determine the scope of the claim but applicant never provides what he intends his invention to be compared to.

8. Claim 20 is indefinite for the recitation that the "plastic member includes at least on projection extending into the container to form an interlocking engagement". Claim 20 fails to recite what the projection is intended to form an interlocking engagement with. Additionally, a projection extending into the container would be disposed in the hollow region inside the container would not be expected to interlocking or engaged with anything.

9. Claim 25 is indefinite for reciting the limitations "applying a plastic member formed on the bearing shell with an injection molding process and then applying the container formed on the plastic member with an injection molding process". The way these limitations are written implies that the steps recited involved the application of an injection molding process *on* the plastic member and the container, not an injection molding process used to form the plastic member and container. Additionally, the limitation "and then applying the container formed on the plastic member with an injection molding process" is interpreted to mean that the container is formed on the plastic member before the injection molding process takes place and that subsequently

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some injection molding process is applied to this combination. The examiner believes that these limitations were meant to recite that both the plastic member and container are formed *by* an injection molding process.

10. Claim 26 is indefinite for the recitation that the "plastic member includes at least on projection extending into the container to form an interlocking engagement between the plastic member and container". A projection extending into the container would be disposed in the hollow region inside the container would not be expected to interlocking or engaged with anything.

11. Claim 29 is indefinite for the recitation of "the plastic member comprising a portion of a container which has not yet been completed". The way this claim is written is interpreted by the examiner to mean that the plastic member is the portion that has not yet been completed, which directly conflicts with the recitation of the formation of the plastic member on the bearing shell in the previous step. If the plastic member has been applied to the bearing shell it is a portion which is complete. If the plastic member exists it is impossible for it to not yet be completed.

### ***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 1-14, 16-18, 19, 21-25, 27, 28 and 30 are rejected under 35 U.S.C.

103(a) as being unpatentable over Cinello et al. European Patent Publication No. EP 219115 (hereafter referred to as Cinello).

14. Cinello teaches a laundering tub characterized in that the two bearings and a spacer element of the tub are disposed within the sleeve made of a plastic material of higher mechanical resistance than that of the rest of the tub. (Col. 1, lines 52-55) The spacer element is an injection molded plastic element and the sleeve is injection molded around the two bearings and the spacer element after which the rest of the tub is injection molded around the sleeve with the bearings and spacer element disposed therein. (Col. 1, line 57-Col. 2, line 3) Only the sleeve of the invention has to be made of an expensive plastic material capable of sustaining the mechanical stresses acting on the bearings while the rest of the tub can be made of an inexpensive plastic material. (Col.2 lines 7-11) The tub of the invention is adapted to contain a rotatable drum. (Col. 2, line 39) The finished tub is thus made of two different types of plastic material, namely, a more expensive first type having a high resistance against mechanical stresses, only a limited amount of which is employed for injection molding the portion supporting the drive shaft of the drum, and a less expensive second type having a lesser resistance against mechanical stresses than the previous one, which is injection molded about the plastic material of the first type at a sufficient amount for forming the remainder of the tub. (Col. 3, lines 40-49)

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15. To simplify the invention disclosed by Cinello it would have been obvious to one having ordinary skill in the art at the time the invention was made to have injection molded a plastic member made of material of capable of withstanding mechanical stresses directly onto a metal bearing shell of the type that are conventionally used and universally known in the washing machine art. This obvious modification would have produced the invention as claimed in claims 10, 19, 23, 25 and 30. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have allowed the material injection molded in the first step of Cinello to solidify before performing the second injection molding step to preserve the structural integrity of the structure formed in the first injection molding step. This obvious and well known step of allowing polymer materials to solidify or "cure" would have produced the method as claimed in claim 29.

16. Cinello specifically teaches using multiple injection molding steps to form a wash tub from materials having different properties and utilizing this method of production would have eliminated the step of molding a spacer element for the bearings thus simplifying the method recited by Cinello while still retaining the functionality of having a tub with material of superior mechanical resistance in contact with the bearing shell region. This obvious modification would have produced the invention as claimed in claims 12-13, 21, 22, 24, 27 and 28. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used as little material as possible to form this region of the tub in order to save money by only use the expensive



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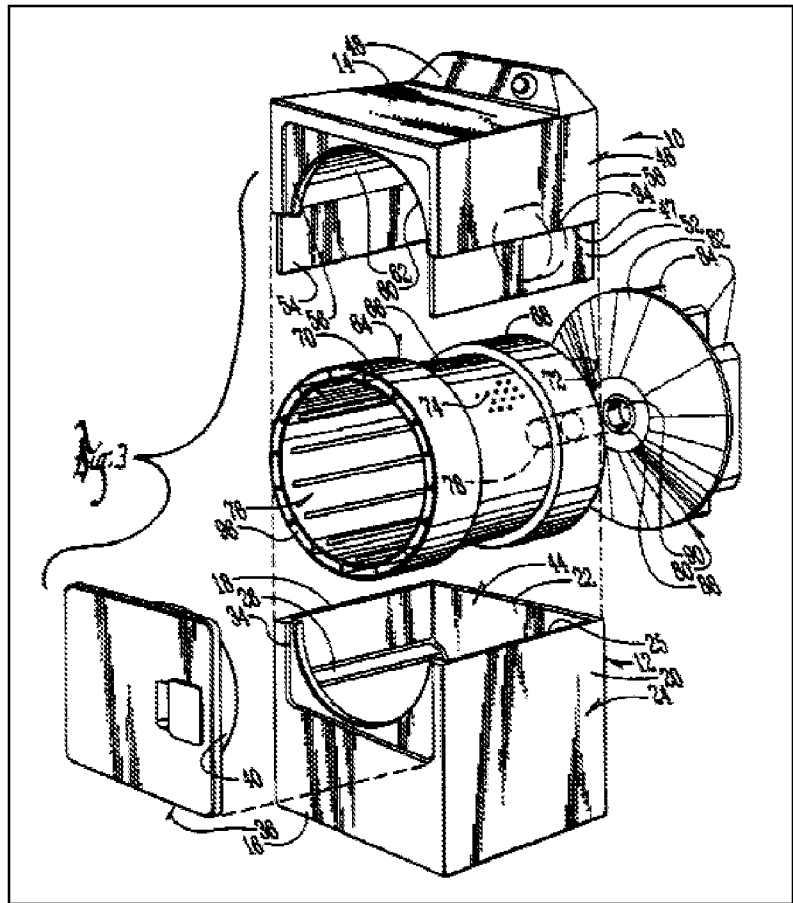
material where it was needed while finishing the injection molding process of the rest of the tub with less expensive, less mechanically resistant materials as recited by Cinello.

17. The shape of the plastic member that would be on top of the bearing shell would be dependent on the shape of the bearing shell, cost of mechanically resistant plastic material and the amount of engagement between the bearing shell and the reinforced region of the washing tub that would be necessary for optimum strength between the connection of the bearing shell to the tub. Whether the member of higher strength plastic would be a ring, an insert or a sleeve entirely encompassing all sides of the bearing shell as claimed in claims 14 and 16-17 would depend on the shape of the bearing shell and the strength of the connection desired. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have selected the optimum configuration of the plastic member after taking all of these factors into consideration. This obvious selection step would have produced the invention as claimed in claims 14 and 16-17.

18. Upon considering the scope and content of the prior art, differences between the prior art and the claims at issue and having resolved the level of ordinary skill in the pertinent art it would have been obvious to one having ordinary skill in the art at the time the invention was made to have made obvious modifications to the invention recited by Cinello in order to produce the article and method as recited in claims 1-14 16-18, 19, 21-25, 27 and 28-30.

19. Claims 15, 20 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cinello et al. European Patent Publication No. EP 219115 (hereafter referred to as Cinello) and Johnson U.S. Patent No. 5,711,170 (hereafter referred to as Cinello).

20. Cinello teaches what has been recited above but is silent regarding the disposition



of ribs on the plastic member formed prior to the injection molding of the rest of the tub.

21. Johnson teaches a splined shaft **78** extending rearwardly from the rear wall **72** of a fabric basket **64** through a bearing **88** mounted within a spinner support **80**. Spinner support **80** is comprised of a circular plate **82** having rearwardly projecting vertical ribs **84** and also having a centrally located circular motor cavity **86** provided on the rear surface thereof. Spinner support **80** includes a centrally located shaft hole **90** which receives the splined shaft **78**, and which is surrounded by the bearing **88**. The spinner support **80** is shown in FIG. 4 to be attached to rear wall **22** of the cabinet by means of screws **92**, but other securing means may be used. For example ridges or grooves may

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be provided in the rear wall **22** which mate with and interlock with complimentary ridges or flanges on the rear surface of spinner support **88**. It is preferable that the spinner support **80** be formed from molded plastic, although it may be made of other materials. A motor **94** is attached to the rearward end of splined shaft **88** and drives the fabric basket 64 rotationally. (Col. 3, lines 28-45, Fig. 3)

22. Johnson and Cinello are both directed towards washing machines and encompass analogous art. The ridges or grooves recited by Johnson to provide a connection between the spinner support and complementary surfaces on the rear wall of the washing machine are a beneficial alternative to the use of screws to connect these two pieces of the washing machine together. As evidenced by Johnson the use of ridges or grooves engaged with complementary surfaces was known in the washing machine art at the time the instant invention was made.

23. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have formed the plastic member made of mechanically resistant material disposed on the bearing shell to have ridges or grooves in order to provide a stronger connection between the plastic member and the remainder of the tub that would be injection molded from weaker material as claimed in claims 15, 20 and 26. This configuration would provide for a larger surface area of engagement between the plastic member as well as a stronger connection than what would be provided by simply injection molding the tub region on a plastic member with a flat surface.

***Response to Arguments***

1. Applicant's arguments filed 6/16/08 have been fully considered but they are not persuasive. The amendment to claim 14 enumerated on page 8 of the remarks does not remedy the deficiencies in claim 14 and claims 15 and 16 which depend from claim 14. Applicant's amendment asserts that the plastic member is capable of forming an envelope or insert of the "structural unit formed by the bearing shell and the plastic member". The plastic member cannot be an envelope around or insert into itself. Claims 14-16 as put forth by applicant are impossible and therefore enablement rejection of claims 14-16 is upheld.

2. Regarding the rejection of claim 13 under 35 USC 112 as being indefinite: Applicant asserts on page 8 of the remarks that the term "quality" "must be understood in the context of the subject matter of the claim, whereupon it is submitted to be readily understandable that the recited "quality" must necessarily relate to a property or parameter that is associated with the pertinent mechanical properties of the "material of at least one of the plastic members". In view of numerous well-known standards for judging a "quality" property of a plastic material, it is clear that one of skill in the art can readily evaluate a plastic container to determine if such is within the metes and bounds of claim 13". Applicant's argument fails to present any specific examples of the mechanical properties asserted nor does applicant provide any rationale as to how one of ordinary skill in the art would be able to prognosticate which of these properties applicant believed to be "pertinent". Additionally, applicant has failed to provide any evidence of what "numerous well-known" standards the quality of the plastic member is

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to be judged in view of. The examiner upholds the rejection of claim 13 as being indefinite.

3. Regarding the rejection of claim 15 under 35 USC 112 as being indefinite:

Applicant asserts on page 9 of the remarks that “one of skill in the art can readily evaluate a plastic container against any one of the numerous well known standards for judging a strength property of a plastic material”. This argument is spurious since it is the strength of the join of the container that is being claimed in claim 15, not the strength of the material used to make the plastic member. Applicant has provided no argument that the join of plastic containers is universally understood to have a certain strength. Additionally, according to applicant’s logic, the container claimed would have to have a greater strength than all well known standards, which is a limitation not supported by the specification. The examiner upholds the rejection of claim 15 as being indefinite.

4. The deficiencies in the amendments to claims 20 and 26 have been addressed above. Applicant describes new independent method claim 30 on page 10 of the remarks. New claim 30 is a dependent claim and does not recite a method. The examiner believes applicant meant to describe new independent method claim 29.

5. Applicant asserts on page 11 of the remarks that Cinello does not disclose all the elements of the invention as claimed. However, applicant fails to address any arguments negating the motivation to modify Cinello set forth in the previous office action.

6. Applicant asserts on page 12 of the remarks that Johnson does not disclose all the elements of the invention as claimed. However, note that while Johnson do not disclose all the features of the present claimed invention, Johnson is used as teaching reference, and therefore, it is not necessary for this secondary reference to contain all the features of the presently claimed invention, *In re Nievelt*, 482 F.2d 965, 179 USPQ 224, 226 (CCPA 1973), *In re Keller* 624 F.2d 413, 208 USPQ 871, 881 (CCPA 1981). Rather this reference teaches a certain concept, namely, ridges or grooves in order to engaged with complementary surfaces and in combination with the primary reference, discloses the presently claimed invention.

7. Applicant asserts on pages 12 and 13 of the remarks that the examiner has engaged in hindsight reconstruction and that there is no clear and particular teaching or suggestion to modify or combine the teachings of Cinello and Johnson. Applicant has generically asserted a lack of motivation for the combinations made in the previous office action while failing to address the arguments set forth in the rejections of record. The mere assertion of hindsight reconstruction in the absence of compelling arguments or evidence coupled with a failure to dispute the motivations put forth in the previous *prima facie* obviousness rejection is not sufficient to overcome the rejections set forth under 103(a).

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHELE JACOBSON whose telephone number is (571)272-8905. The examiner can normally be reached on Monday-Thursday 8:30 AM-7 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on (571) 272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michele L. Jacobson  
Examiner /M. J./  
Art Unit 1794

+

/Carol Chaney/  
Supervisory Patent Examiner, Art Unit 1794